UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1995/78/Add.1
16 January 1995

ENGLISH
Original: ENGLISH/FRENCH/SPANISH

COMMISSION ON HUMAN RIGHTS
Fifty-first session
Item 16 of the provisional agenda

IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE SECOND DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION

Report by Mr. Maurice Glélé-Ahanhanzo, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to the United States of America from 9 to 22 October 1994, submitted pursuant to Commission on Human Rights resolutions 1993/20 and 1994/64

CONTENTS

	Paragraphs	Page
Introduction	1 - 3	3
I. CONSIDERATIONS CONCERNING THE MISSION AND OVERVIEW OF THE UNITED STATES OF AMERICA	4 - 20	3
A. Purpose of the mission	4 - 8	3
B. The mission itself	9 - 16	4
C. Overview of the United States of America . . .	17 - 20	6
II. HISTORICAL, SOCIO-POLITICAL AND ECONOMIC FOUNDATIONS OF RACISM AND RACIAL DISCRIMINATION	21 - 31	8

GE.95-10167 (E)

CONTENTS (continued)

		Paragraphs	Page
III.	CONTEMPORARY FORMS AND EXPRESSIONS OF RACISM AND RACIAL DISCRIMINATION	32 - 91	10
	A. Health	39 - 44	12
	B. Education	45 - 47	13
	C. Housing	48 - 51	14
	D. Employment	52 - 56	15
	E. Political participation	57 - 58	16
	F. Criminal justice and the application of the death penalty	59 - 63	17
	G. Police violence	64 - 66	18
	H. Incitement to racial hatred and racist violence	67 - 75	19
	I. Antisemitism	76 - 77	21
	J. Immigration and the right of asylum	78 - 82	22
	K. Women and racism	83 - 87	24
	L. Racism and the environment	88 - 91	25
IV.	MEASURES TAKEN BY THE GOVERNMENT AND ACTION BY SOCIETY AT LARGE	92 - 110	27
	A. Measures taken by the Government	92 - 107	27
	B. Action by society at large	108 - 110	31
V.	CONCLUSIONS AND RECOMMENDATIONS	111 - 112	31
Annex:	Schedule of the mission of the Special Rapporteur on contemporary forms of racism to the United States of America (9-22 October 1994)		40

INTRODUCTION

1. In resolution 1993/20, dated 2 March 1993, the Commission on Human Rights requested the Secretary-General to provide the Special Rapporteur with all necessary assistance, in particular the staff and resources required to perform his or her functions, especially in carrying out missions and following them up. In resolution 1994/64, dated 9 March 1994, the Commission requested the Secretary-General without further delay to provide the Special Rapporteur with all the necessary assistance in carrying out his mandate.

2. The purpose of any missions undertaken by a special rapporteur is to take cognizance of the real situation in a country through first-hand information and discussion between the special rapporteur and the authorities of the country concerned and agents within society at large. They are in no case intended to level charges at the Governments concerned, but on the contrary to help publicize, if appropriate, the efforts made to remedy a particular negative situation. Missions are chosen on the basis of geographical distribution and bearing in mind that racial discrimination, which is inherently multiform, occurs on all continents.

3. On 14 June 1994, the Assistant Secretary-General for Human Rights, at the request of the Special Rapporteur, informed the Government of the United States of America of Mr. Glélé-Anhanhanzo's desire to visit the United States from 10 to 21 October 1994. In a letter dated 15 August 1994, the Government of the United States agreed to the visit and said that it was prepared to provide the Special Rapporteur with all the assistance he wanted.

I. CONSIDERATIONS CONCERNING THE MISSION AND OVERVIEW OF THE UNITED STATES OF AMERICA

A. Purpose of the mission

4. The purpose of the mission was to enable the Special Rapporteur to meet with representatives of the Government and individuals active in the political, economic and social fields who were in a position to provide him with information relating to various aspects of his mandate.

5. In particular, it was important for the Special Rapporteur to verify the accuracy or inaccuracy of the information transmitted to him or brought to the attention of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the Commission on Human Rights. The information in question reported the persistence, despite the official elimination of racial segregation and of anti-discrimination laws, of structural and insidious racism and racial discrimination against African Americans, Latin Americans, Asians, Indian Americans (Amerindians), Arabs and Jews in the economic and social spheres; of racial discrimination in the administration of criminal justice; discriminatory practices in the police and police brutality symbolized by the notorious Rodney King case, which shook the United States and stirred international public opinion, and the growth of incitement to racial hatred. 1/

6. The Special Rapporteur adopted the following 11 focal points or topics capable of highlighting the racial discrimination experienced by certain

ethnic communities and indigenous populations: health; education; housing; employment; political participation; criminal justice and the application of the death penalty; police violence; incitement to racial hatred; anti-Semitism; migrant workers; asylum seekers.

7. Bearing in mind the recommendations by the World Conference on Human Rights and the Commission on Human Rights regarding the need regularly and systematically to provide available information on human rights violations affecting women, the Special Rapporteur also decided that it was appropriate to direct his attention to the topic of racial discrimination against women.

8. During the mission, several of those with whom the Special Rapporteur spoke asked him also to address the issues of self-determination for ethnic minorities and indigenous populations and of racism reportedly practised in environmental matters. Although the Special Rapporteur believes that the second topic may fall within his purview, his competence does not extend to the first, i.e. the issue of the sovereignty and self-determination of the Amerindian populations, with representatives whom he none the less spoke a number of times; for this reason, the issue is not taken up in this report. 2/

B. The mission itself

9. Together with an official from the Centre for Human Rights, the Special Rapporteur visited Washington, D.C., New York, Los Angeles and Atlanta (the detailed programme of the Special Rapporteur's mission is set out in the annex). At each stage, he was assisted by an interpreter assigned to the mission by the United Nations Information Centre in Washington, and subsequently by United Nations Headquarters in New York. These cities were selected because of the Special Rapporteur's concern to acquaint himself with the diverse historical, political, economic and sociological circumstances underlying the issues of racism and racial discrimination in the United States. While the Special Rapporteur does not claim that these brief visits enabled him to gain a full understanding of these problems in the United States, he believes that these four cities typify the socio-political and economic dynamics at the federal level. However, he regrets that he was unable to carry out the visits which numerous non-governmental organizations urged him to make to the Indian reservations along the United States-Mexico border, in Mississippi and in Alabama, where there are problems that come within his mandate. 3/

10. During his stay, the Special Rapporteur had the honour to be invited to an extremely fruitful working lunch at the State Department with high-ranking officials and was received by Mr. Joel Spiro, Acting Deputy Assistant Secretary of State and Mrs. Nancy Ely Raffle, Deputy Secretary of State for Human Rights. The Rapporteur was also received by Mr. Dennis Hayashi, Director of the Civil Rights Department of the Department of Health and Human Services; Mr. James Lassiter, Mr. Ralph Thomas and Mr. Bo Cooper, officials of the Department of Justice, Immigration and Naturalization Service; Mr. Policarpio Marmolejos, Special Assistant to the Assistant Attorney-General for Civil Rights; Mrs. Ada E. Deer, Assistant Secretary for Indian Affairs, and Mrs. Barbara Brooks, Deputy Director for Public Affairs, United States

Commission on Civil Rights. The Special Rapporteur also held discussions with Mr. Charles Henry, Director, Office of External Affairs, Bureau of Democracy, Human Rights and Labor, Department of State.

11. In addition to government officials, the Special Rapporteur was received by officials from the city councils of Washington, D.C., New York and Atlanta responsible in particular for preserving and if possible strengthening inter-community harmony within their cities and for protecting the rights of members of the various communities. The officials in question were Mr. Merrick Malone, Assistant City Administrator for Economic Development, in Washington; Mr. Robert Hammel and Mrs. Sara Vidal of the New York City Commission on Human Rights; and Mrs. Sheila Martin Brown, a member of Atlanta City Council.

12. The Government of Mexico took advantage of the Special Rapporteur's presence in the United States to inform him of the problems faced by migrant workers and Mexican immigrants, particularly in California. The Special Rapporteur also spoke with Mr. Victor Flores Olea, Permanent Representative of Mexico to the United Nations, during his stay in New York, and with Mr. Enrique Loaeza, Consul-General of Mexico in Los Angeles, when he visited that city.

13. The Special Rapporteur himself received a number of non-governmental organizations combating racism and racial discrimination, and they included eminent representatives of the World Council of Churches who were in Washington for hearings on racism as a violation of human rights in the United States, representatives of organizations from the African American, Asian, Mexican American, Arab American, Indian American and Jewish communities. 4/ While in Harlem, New York, he also had the opportunity to take part in a hearing of victims of racism and racial discrimination, organized by the International Association against Torture.

14. Mindful of the impact of the mass media, particularly the persuasive power of the visual image, and conscious of the decisive importance of teaching tools used to eradicate racism, the Special Rapporteur devoted part of his stay in Los Angeles to visiting the Museum of Tolerance, established by the Simon Wiesenthal Center; the museum is a moving and highly instructive achievement and should be publicized throughout the world, for example, by video, failing the establishment of a museum on each continent.

15. The Special Rapporteur's varied and instructive itinerary enabled him to gather many instructive data on racism and racial discrimination in the United States that he would like to submit to the Commission on Human Rights in this report. However, it is important to point out that the report is a necessarily partial synthesis of the numerous testimonies received and of a wealth of valuable documents which fill at least three cardboard boxes and would take a team several months to work through.

16. The Special Rapporteur cannot conclude without expressing his gratitude to the Government of the United States for its welcome and for the spirit of cooperation and the openness displayed by its representatives. He would also

like to thank the city officials of Washington, D.C., New York and Atlanta, as well as the representatives of those non-governmental organizations who were willing to meet him and provide him with documentation.

C. Overview of the United States of America

17. The United States of America is a federal Republic composed of 50 States and the District of Columbia, where the federal capital, Washington, is situated. The population, numbering approximately 250 million, is undergoing profound changes, both in terms of ethnic composition and of the age and sex pyramid. Virtually all the world's racial, national, ethnic, cultural and religious groups are present in the United States, a situation which increasingly tends to counterbalance the preponderance of the population of European origin. The following table gives an idea of the population of the United States. The average age is estimated to be 32.9 years and women make up over half the population (51.2 per cent). English is the predominant language, but 35 million people (15 per cent) speak another language.

18. The United States has a long and firmly-established democratic tradition and is considered, according to the familiar expression, to be a melting pot, with a cultural and socio-political balance among peoples of diverse origin. However, there are those who argue that, for historical reasons deeply rooted in American culture and on account of residual racism and racial discrimination (see chap. II):

> "this democratic tradition and diversity have seldom been reflected in the distribution of power or control over the most basic strategic resources - land, capital, work opportunity, wage rates, legal rights and life itself". 5/

The liberal ideology and capitalism, which have secured the economic prosperity and political stability of the United States, have also created disparities between Whites and the other ethnic groups, particularly the African Americans, Indian Americans, Hispanics and Asians. Numerous measures have been adopted both locally and at the federal level to remedy this situation, but the effects fall short of expectations because of individual and structural resistance.

19. The economic and social policy conducted by the Republican Administration under President Reagan and President Bush in the 1980s helped to accentuate the imbalances in the distribution of wealth, for the benefit of the rich, while a broad sector of the population, consisting in particular of persons from ethnic minorities, was impoverished and marginalized. As President Clinton acknowledged in his State of the Union address on 25 January 1994, poverty, drugs, violence and crime are scourges which confront American society and primarily affect the most under-privileged classes, whose ranks are made up of ethnic minorities.

20. As far as human rights are concerned, the civil rights movement which developed in the 1950s helped to bring up to date in American society the principles that were recognized in the Constitution and embodied in numerous laws. However, any human rights problems in the United States were viewed solely from a domestic standpoint, as the Government believed the relevant

Table 1

Race and Hispanic origin for the United States: 1990

	Number	%
Race		
All persons	248 709 873	100.0
White	199 686 070	80.3
Black	29 986 060	12.1
American Indian, Eskimo or Aleut	1 959 234	0.8
American Indian	1 878 285	0.8
Eskimo	57 152	0.0
Aleut	23 797	0.0
Asian or Pacific Islander	7 273 662	2.9
Chinese	1 645 472	0.7
Filipino	1 406 770	0.6
Japanese	847 562	0.3
Asian Indian	815 447	0.3
Korean	798 849	0.3
Vietnamese	614 547	0.2
Hawaiian	211 014	0.1
Samoan	62 964	0.0
Guamanian	49 345	0.0
Other Asian or Pacific Islander	821 692	0.3
Other race	9 804 847	3.9
Hispanic origin	22 354 059	9.0
Mexican	13 495 938	5.4
Puerto Rican	2 727 754	1.1
Cuban	1 043 932	0.4
Other Hispanic	5 086 435	2.0
Not of Hispanic origin	226 355 814	91.0

Source: Bureau of the Census.

American legislation to be more advanced in certain respects than international norms. The process of ratification of the international human rights instruments initiated by the United States Government in the early 1990s marked the start of a search for a balance between the implementation of internal norms and of universally recognized human rights norms, 6/ the emphasis necessarily being placed on the unity of the rights of the human person, namely, the interdependence and indivisibility of civil and political rights and economic, social and cultural rights.

II. HISTORICAL, SOCIO-POLITICAL AND ECONOMIC FOUNDATIONS OF RACISM AND RACIAL DISCRIMINATION

21. The history of the United States of America is closely bound up with the Black slave trade and slavery and with the colonization and genocide of the Indians that were openly practised from the seventeenth century to the nineteenth century. Those practices were based on racism; slave traders and cotton planters, followed by the pioneers in their westward trek, fostered the doctrine of the superiority of the White race and the inferiority of Blacks and Indians.

22. Once they had been developed, racist theories institutionalized systematic discrimination, oppression and exploitation of the Blacks, the Indians and then the Asians, for the benefit of the Whites.

> "Historically, racism has constituted/constitutes a system of special privileges, benefits and psychological and material benefits for people of European descent/white people in United States society - a long-standing intergenerational, developmental, affirmative action program for white people." 7/

In American colonial slave-owning society, the Blacks and the Indians had no rights.

23. Africans were first brought to the western hemisphere enslaved in 1518, and to British colonial America in 1619, 12 years after the establishment of the first English settlement at Jamestown. By the middle of the seventeenth century, a slave system among colonial plantation owners was fully established and by the end of that century, enslaved Africans had become the chief source of labour and profit and, therefore, the key component of the colonial agricultural and commercial interests. A racist social structure was established, which placed Africans at the bottom and was supported by northern trading and shipping firms.

24. When the American colonialists challenged British rule in the late eighteenth century and achieved independence through the revolutionary war, a system of racism was incorporated into the basic documents of the newly formed United States of America. The Declaration of Independence and the United States Constitution condoned racial subordination and discrimination. At that time, the framers of those documents saw no contradiction in composing a liberal view of liberty for white males with property, while denying it to all African peoples, indigenous peoples, white women and even poor white males.

25. Slavery was sanctioned by the difference between people of colour and oppressed whites. The poor whites were at least human. The enslaved African and the Native Americans were considered less than human, "uncivilized savages" even. The "3/5 of a person" clause in the United States Constitution best exemplifies that reality. In addition, and closely related was the European settler expansionism across the continent. In practice, this meant that President Andrew Jackson would initiate the federal policy contained in the Indian Removal Act of 1830 that would lead to the infamous "trail of tears".

26. It was the Civil War and the passage of the Thirteenth, Fourteenth, and Fifteenth Amendments to the United States Constitution that officially ended slavery in the United States of America. Although slavery was abolished by the Thirteenth Amendment in the latter decades of the nineteenth century, all southern states and many others passed "Black codes" or "Jim Crow" laws mandating racial segregation in almost all areas of public life and different treatment in both private and public affairs. The signature of the Emancipation Proclamation by President Lincoln also marked the official beginning of the United States Government's increase in wars against indigenous peoples, further reducing their population from an estimated 12 million (at first contact) to less than 200,000 by the late 1880s.

27. With respect to the reconstruction, constitutional amendments, the Bill of Rights and other laws, according to Vine Deloria, represent a special situation in their applicability to American Indians:

> "The Bill of Rights was added to the Constitution at a time when many Indian nations did not recognize the United States as a superior sovereign to whom they owed allegiance. The Thirteenth, Fourteenth and Fifteenth Amendments were added during the treaty-making period when it was anticipated that Indians would always remain separate from American society. The Sixteenth, Eighteenth and Twenty-first Amendments were adopted long after the end of treaty-making when everyone assumed that the federal government had a plenary power over Indians, which precluded the operation of these amendments with respect to Indians." 8/

28. In effect, Jim Crow laws once again legalized and legislated white supremacy and white domination throughout society for all national minorities and indigenous peoples, who existed outside of any constitutional protection. Segregation and the reservation system were established to consolidate this domination. The post-Civil War amendments and all the achievements of the period of reconstruction were finally undermined with the adoption by States and the federal Government of the infamous "separate but equal" doctrine. The Supreme Court replaced slavery with an equally effective instrument of domination and subordination.

29. The Plessy v. Ferguson separate but equal case, decided by the United States Supreme Court in 1896, codified the segregated society where race determined social position. The violent counterrevolution was also achieved because of the terrorist activities of racist organizations such as the Ku Klux Klan, white citizens' councils or random acts of racist violence. In fact, between the end of reconstruction and the early years of the

twentieth century, more than 5,000 men, women and children were lynched by racist terrorist gangs. Violent race riots, the bombing of African American towns and the wholesale destruction of Black property were normal features of existence.

30. It was not until 1954 that the "separate but equal" doctrine was successfully challenged by civil rights groups and overturned by the Supreme Court. The decision that segregated schools were inherently unequal set the stage not only for the desegregation of American schools, but also set in motion a series of challenges to discrimination against African Americans and other national minorities which culminated in sweeping civil rights legislation in the 1960s.

31. The activities of national minorities fighting for equality and the changing international situation produced those changes and provided for the basic infrastructure of the domestic human rights machinery in the United States today. The changes were not easily won. Key leaders, like Malcom X and Martin Luther King, were assassinated, hundreds of others were murdered and thousands more were jailed or suffered because of their political activities.

III. CONTEMPORARY FORMS AND EXPRESSIONS OF RACISM AND RACIAL DISCRIMINATION

32. Despite the numerous laws, institutions and measures which are designed to do away with the vestiges of the past and which include the affirmative action programmes, racism and racial discrimination are still topical issues in American society. The many publications on the matter are in themselves enough proof of this. A recent book was the subject of intense debate at the time of the Special Rapporteur's visit, on account of its racist content. The authors, Richard Herrstein and Charles Murray, 9/ attempt to prove that Blacks are genetically inferior to Whites on the basis of the disparity between the intelligence quotients of individuals in each group. They draw the conclusion that it is pointless to try and bridge the gap between the two races in the economic, social and cultural fields by affirmative action on behalf of Blacks. Again, the impressive number of non-governmental organizations and public agencies engaged in combating racism and racial discrimination is revealing. Hardly a day goes by without the race problem being brought up in the media in connection with elections or measures to be taken in one field or another. In watching the American television news, the Special Rapporteur was able to appreciate for himself that racial issues constantly came to the fore in the trial of the famous African American football player O.J. Simpson, who is accused of murdering his ex-wife and her lover.

33. The United States Commission on Civil Rights has itself stated:

> "When we look at the state of civil rights in this country today, there are reasons for both optimism and pessimism. Few would disagree with the proposition that, despite the relative gains that have been made by minorities through civil rights legislation and court intervention, race relations in this country are strained, and characterized by mistrust, fear and anger." 10/

34. Thus, as a number of persons who spoke to the Special Rapporteur said, "racism is still an issue", and they added that it is widely institutionalized. 11/ However, the Special Rapporteur prefers to describe the problem as one of social dysfunction caused by the persistence of racism and racial discrimination. With this concept, the Special Rapporteur would like to convey the idea that sociological, psychological and structural carryovers are at the root of the subtle forms of racism and racial discrimination still found in American society. This stems from the power of myths and prejudice and from their use as instruments of social exclusion: myths and prejudice about the laziness of some people and the ingenuity and industriousness of others; 12/ the criminal propensities or terrorist inclinations of some and the disciplined nature of others; the fact that some cannot be assimilated or refuse to integrate, while others take up the *American way of life*. This is further illustrated by the tendency to circumvent or break the law in housing, health, justice, the economy, education, and so on.

35. Among the members of the African American community, which bears the brunt of racism and racial discrimination, the emergence of its own middle class and the success of a number of artists and sports figures whom the media shower with praise are, in the opinion of some, no more than alibis and a screen to mask the failure of policies pursued by the federal Government for over 40 years to eliminate racism and racial discrimination. 13/ The fate of the majority of Blacks is one of poverty, sickness, illiteracy, drugs and crime in response to the social cul-de-sac in which they find themselves. Even within the African American middle class, resentment is growing and doubt prevails about the possibility of a much better social status beyond a certain limit and the possibility of integration. This explains the tendency to fall back on their own community and the emergence of radical, "Afrocentric" movements advocating a break with "White society".

36. It should be added that the dismantling of social programmes during the 1980s, under the Republican Administration, helped to produce worse living conditions for persons from ethnic minorities, particularly the African Americans and Latino Americans, and speeded up their marginalization.

37. The conclusions reached by the delegation of the World Council of Churches after the Hearings on Racism as a Violation of Human Rights in the United States (8-19 October 1994) supplement the findings of the Special Rapporteur about the status of members of the African American, Native American, Latino American and Asian communities:

> "Many witnesses emphasized various patterns of racism against people of color;
>
> In housing, they live in appalling conditions and endure insecure and unstable tenure;
>
> In employment, they are discriminated against and relegated to the most menial jobs;

In health, the delivery services are underfunded and inefficiently run, resulting in higher rates of infant mortality, communicable diseases and cancer and decreased life expectancy;

In education, the system is characterized by underfunding, underachievement, alienation, and racist stereotyping;

In the criminal justice system, the rate of imprisonment and the application of the death penalty are disproportionately higher among them;

Police brutality is common in their communities, especially against youth;

Immigration and refugee policy are biased against them." 14/

38. The Special Rapporteur would now like to illustrate this panorama with a number of facts concerning the main topics he has chosen.

A. Health

39. The consequences of racism and racial discrimination in the field of health are reflected in the disparity in access to health care, the infant mortality rates and the life expectancy of Whites and Blacks or Latino Americans. This is confirmed by a number of studies and by the interview held by the Special Rapporteur at the Department of Health and Human Services. For example, a scrutiny of the statistics on cardiovascular disease and heart attacks shows that the mortality rate from these diseases is 29 per cent higher among African Americans than among Whites. The rate among Black women is twice that among White women. Despite the progress made in reducing overall infant mortality, the infant mortality rate among African Americans is twice that of White children. The risks of an African American becoming blind as a result of glaucoma are seven times greater than those faced by a White. The following statement is to be found in a publication by the New York African American Institute:

"Glaucoma is one of many communicable diseases that continue to exacerbate the health crisis in the African American community. The crisis is further compounded by recent revelations of the resurgence of both syphilis and tuberculosis. When these two are combined with the HIV/AIDS epidemic, the potential for high incidence of morbidity and mortality in the African American community is devastating. Of the 152,126 cases of AIDS as reported by the Centers for Disease Control (CDC) in Atlanta, Georgia, for 1990, African and Latino Americans together comprised 44 per cent of the cumulative reported cases of AIDS in the U.S. African American women and African American children under thirteen years of age accounted for 52 per cent of all cases of AIDS in those categories by September 1990 as reported by the CDC." 15/

40. The incidence of cancer, as well as of sexually transmitted diseases, of infant mortality and of cardiovascular disorders is also disproportionately high among African Americans in comparison with Whites. Lung cancer, cancer of the oesophagus and stomach cancer are predominant among African Americans

and account for this disparity. Furthermore, the fact that one third of African Americans are considered poor means that they have "a five-year survival rate (with cancer) 12 per cent lower than that of Whites, 50 per cent for Whites and 38 per cent for Blacks". 16/

41. A comparison of statistics for diabetes also reveals a higher incidence of morbidity or mortality among African Americans compared with Whites. "Rates of diagnosed diabetes are 50 per cent higher in Black males, and 100 per cent higher in Black females, compared with their White counterparts [and] the adjusted death rate from diabetes for Blacks is 2-4 times higher than for Whites." 17/

42. It is possible that these statistical disparities are attributable to a lack of familiarity with and attention to health matters, but they are caused essentially by unequal access to health care, lack of medical insurance and discriminatory practices by part of the medical profession. Far fewer Blacks than Whites are able to see a doctor each year because they are poor and have no insurance. Moreover, the major medical centres where the best doctors work are usually in residential areas where Whites live rather than in the poor districts inhabited by the Blacks. When the Blacks go to see a doctor, if he is White they are not well treated. Other ethnic minorities also face similar situations. The case of a Hispanic who reportedly died after an injection of a higher than usual dose of anaesthetic because the doctor thought that Hispanics were more sensitive to pain than Whites was brought to the attention of the Special Rapporteur. 18/

43. Some home care agencies also refuse to send their staff to districts where ethnic minorities live. A study by the Department of Health at a Manhattan hospital revealed that it was the hospital's policy to admit Whites on one floor and to give them better care, while Blacks and Hispanics were relegated to another floor where they received poorer care. Between 3,000 and 3,500 complaints of racial discrimination are received each year by the Civil Rights Department of the Department of Health. 19/

44. One hidden fact that should be brought out into the open is that racism lies at the root of many psychological disorders and mental illnesses, including neurosis and psychosis suffered by persons belonging to ethnic minorities. However, practitioners tend to disregard this factor in diagnosing and treating patients. In preference to alternative therapies drawing on the patient's experience, practitioners administer heavy doses of medicines, thereby making the patients dependent or even feeble-minded.

B. Education

45. Although the United States Supreme Court's famous decision in Brown v. Board of Education, in 1954, abolished segregation in education, a form of de facto education stemming from economic inequality has emerged. Since many people from ethnic minorities cannot afford to enter the private schools and universities, which are the best, the majority of them end up in establishments that are inadequately subsidised by public funds. As a result, children from ethnic minorities receive an inferior education and are not so well prepared to meet the demands of the American economy or to manage public affairs. Authoritative studies by the Urban League show that "a large number

of Black children are not able to attend pre-school because their parents have financial problems, and while 86 per cent of American children from all income groups are educated in the public schools system, the public schools are failing to educate many, especially those from economically disadvantaged backgrounds. Among Blacks, the drop-out rate was 17.7 per cent". 20/ According to the Latino Commission on Educational Reform, "Latino students are segregated in schools whose students come from minority and low socio-economic backgrounds. About half of all Latino and African American students attend intensely segregated schools with 90-100 per cent minority enrolment characterized by high levels of poverty." 21/

46. Some people assert that covert but real segregation contributes to the development of an underclass of citizens, comprising mainly Blacks, Puerto Ricans and other Hispanics, whose lot is poverty, illness and a lack of education, and who take to crime and drugs in despair. It has been acknowledged that endemic violence has entered American secondary schools to such an extent that some of them have been compelled to install firearms detectors and guards at their gates.

47. A number of persons pointed out that school curricula fail to take sufficient account of the cultural heritage and ethnic diversity of the United States and tend to conceal the country's history and deny the identity of the various non-White communities of which it is composed, to the benefit of education emphasizing America's European heritage.

C. Housing

48. In regard to housing, one striking feature is apparent from a visit to the large American cities: the contrast between the areas where a majority of Whites live and those lived in by ethnic minorities, and particularly those where African Americans are in the majority. In the White areas, the houses are in a good state of repair, the highways and public infrastructure are well maintained and the household garbage is collected regularly - quite the opposite of what may be seen in those districts where ethnic minorities predominate. There is a de facto segregation which has been shown by certain studies:

> "According to one analysis of the 1990 Census data, the majority of the nation's 30 million African Americans were segregated in 1991 as they were at the height of the civil rights movement in the 1960s. In particular, the survey of 219 major metropolitan areas found that African Americans were highly segregated in 31 - or two thirds - of the 47 metropolitan areas where they make up at least 20 per cent of residents, including Detroit, Michigan, Chicago, Illinois, Miami, Florida and Birmingham, Alabama." 22/

49. The quality of the housing occupied by persons from ethnic minorities is frequently below national standards. For example, many cases of lead contamination have been found in districts where so-called coloured people live, because of the poor state of the waterpipes: "4 million housing units have lead contamination which is affecting 2 million school-aged children". 23/ It should also be pointed out that federal housing

subsidies fell considerably between 1980 and 1993, with a particular impact on the possibility for people from ethnic minorities to find housing:

> "In 1980, federal funds in housing totalled $66 billion. In 1993, the total of federal funds was $8 billion. At the high point of 1985, there were approximately 1,900 housing starts in single and multiple structures of 5 or more units. In 1990, there was a total of approximately 750 housing starts, with the picture somewhat improved in 1993 with approximately 1,600 new housing starts registered by the Census Bureau." 24/

50. Moreover, African Americans, Latinos and other ethnic minorities might encounter racial discrimination affecting access to housing subsidies, as in the city of Buffalo, in New York State, where it was found that "97 per cent of rental housing subsidies were given to white households even though 21 per cent of those on waiting lists were people of color". 25/ Moreover, it is difficult for persons from ethnic minorities to obtain housing loans.

51. Another distinctive urban feature is the number of homeless persons wandering aimlessly and begging in the large American cities. Yet again, a majority of them are so-called coloured people. A study by the Housing Department has found that over 6 million persons were homeless, the majority of them African Americans. Although the latter make up 12 per cent of the United States population, they account for at least 48 per cent of the homeless. In New York City alone, where the percentage of African Americans is estimated at 17 per cent, they account for 60 per cent of the homeless.

D. Employment

52. Like most industrialized countries, the United States is experiencing a growing level of unemployment. However, because of the changing economy and some discriminatory practices, rates of unemployment among national minorities and indigenous peoples are appalling. This is especially true for young people.

53. The official unemployment rate in the United States is 5.6 per cent. For African American adults, it is officially 15.9 per cent. For African American youth however, it is 40 per cent. The rate of unemployment among Latinos is approximately 17 per cent and among Native Americans, the official rate of unemployment averages 46 per cent (data often is not kept, but it is known that on some reservations unemployment ranges as high as 70 per cent). These official rates must be understood against the reality of hundreds of thousands of people having given up looking for work and who are therefore not counted in official data, and the inclusion of those persons in the armed forces being counted. For instance, the real rate of unemployment for African Americans is 26 per cent and for African American youth, 58 per cent. 26/

54. The misery, pain and suffering brought on by unemployment can be seen on any street in the United States, with African American homeless people increasingly begging for food, work or money. The changes in the job market, coupled with the effects of racial discrimination, have led to an unprecedented marginalization of the Black working class. In fact, the Urban Institute, in a seminal report on employment discrimination, noted that racism

in employment is still widespread in the United States, with African Americans three times as likely as Whites to face discrimination when applying for entry level jobs. The depressed United States economy and the global restructuring occurring has meant that workers with little education cannot find decent paying jobs. Others who have found new jobs in the service sector typically receive lower wages, and most of these jobs normally do not provide medical insurance or decent fringe benefits. Federal government policy and corporate cutbacks again have exacerbated the worsening employment conditions.

55. For instance, during the 1980s, the federal minimum wage was frozen at $3.35 per hour. This policy expanded the working poor. Thousands of persons working full-time cannot afford the basic necessities of life. Not able to participate in the economy in any meaningful way, many in the Black working class have opted to participate, or turn their heads while their children participate, in the underground economy.

56. In addition, racial discrimination in employment has been a central objective of corporations adjusting to the emerging international realities. The Supreme Court led in the assault in this area. The 1988-1989 Court decided that United States law prohibiting employment discrimination should be drastically reduced. In five cases the Court's restrictive rulings limited the domestic human rights machinery from protecting persons injured by discriminatory behaviour. 27/

E. Political participation

57. Notwithstanding the Constitution and federal laws purportedly granting the vote to all "citizens", numerous barriers exist to the participation of people of colour in the political process; the chief barrier being the structure of the system itself, which ensures that people of colour will not be able to elect their fair share of representatives at the national, state or local levels. In particular, the single district electoral system employed throughout the United States, which requires winning candidates to attract a majority or plurality of the vote, makes it difficult for people of colour to elect representatives since in most districts people of colour are outnumbered by White voters. For instance, although Black people make up 12 per cent of the United States population, they occupy only about 5 per cent of the elected offices in the country and have only 1 per cent of the seats in the Senate. In addition, the low number of people of colour holding elected offices can further be attributed to the fact that few of them have one million or more dollars to spend on running for the Senate. In short, although people of colour in the United States generally have the right to vote, they do not have the equally fundamental right to representation.

58. When they are appointed to positions of political responsibility, elected African American officials, for example, whether mayors, governors, judges or other elected officials, may face various forms of harassment - which do not affect other elected officials - by the Internal Revenue Service and the Federal Bureau of Investigation. Such practices were commonplace during the 1980s under the Republican Administration. A number of Black elected officials were placed under surveillance, their telephones tapped, subjected to investigations, spied on by cameras for corruption or embezzlement, and juries hearing cases involving some of them were

manipulated. The public figures include Julian Bond, a Georgia State legislator, Clarence Mitchell III, a Maryland Senator, Federal Judge Alcee Hastings; the following Congressmen: Ron Dellums, Floyd Flake, Harold Ford, Mervyn Dymally, John Conyers, Charles Rangel, William Clay and William Gray; the following mayors: Andrew Young, Maynard Jackson, Tom Bradley, Coleman Young, David Dinkins, Harold Washington and Marion Barry. Only Marion Barry, the former mayor of Washington who has since been re-elected, was convicted of using cocaine. The various charges held against a number of others were dropped, and those who were tried were acquitted. 28/

F. Criminal justice and the application of the death penalty

59. There is a glaring disparity between the number of so-called coloured prisoners and the number of Whites in the United States prison population. Some people account for this by the fact that persons from ethnic minorities are more inclined to take to crime because of their idleness. For others, on the contrary, the judicial system is particularly severe or even discriminatory towards such persons. For the same offence or crime, a Black, a Latino, an Asian, an Indian or an Arab is likely to receive a penalty that is two to three times harsher than a White's. This imbalance is also the result of the inadequate representation of ethnic minorities on juries.

60. Racial factors affect the judicial process, from the moment of arrest right through to the trial. Here again, the figures speak for themselves. For example, although men of African American origin make up 6 per cent of the United States population, they represent 44 per cent of prison inmates. It is common knowledge that one out of four black males aged 20 to 29 is either in prison, on parole or probation. According to the National Institute of Drug Abuse, in the United States as a whole 80 per cent of drug users are white, whereas Whites only make up 7 per cent of those arrested on drug charges and Blacks 28 per cent. 29/ Moreover, the risk for a Black woman of going to prison for drug use is eight times higher than the risk for a White woman.

61. It should be added that the systematic preference given in the 1980s to a repressive policy towards crime rather than preventive and rehabilitative programmes led to a considerable increase in the prison population. It has been estimated that by the year 2000 the United States prison population is likely to reach 2,500,000. This repressive trend has led to an unprecedented boom in the prison industry. Between 1969 and 1989 the United States cut its education budget by 25 per cent and increased the criminal justice budget by 400 per cent. 30/ Nowadays, the total cost of incarceration, including the construction, maintenance and renovation of prisons, is estimated at $100 billion. 31/

62. In addition to ordinary criminals, anti-racist and independence activists who regard themselves as political prisoners, even though their country's legal system does not recognize them as such, make up a sizeable proportion of the inmates of American prisons. The Prisoners of Conscience Project of the National Council of Churches of Christ, USA, for example, is in contact with some 100 political and religious prisoners - the majority of them militant fighters in struggles against white supremacy and racism and for self-determination for people of colour in the United States. Convicted as "criminals", many of them are sentenced to inordinately long prison terms, in

some cases as long as 100 years, whereas convictions for similar criminal charges are only a few years or less for those who have no such political or religious views. Of these 100 or more political prisoners, 18 are Puerto Ricans imprisoned for their efforts to "end United States colonialism" 32/ in their homeland. This past summer, Geronimo ji jaga Pratt, a former member of the Black Panther Party, who has been in prison since 1971 and who Amnesty International, among others, has said was convicted in violation of rights under the federal Constitution, was denied parole for the thirteenth time.

63. As to the death penalty, a number of studies and reports, including those by Congress, Amnesty International and Human Rights Watch, emphasize the racial discrimination prevalent in its application. 33/ Studies by the federal Government have also confirmed that racism plays a significant role in death penalty cases. A Government Accounting Office (GAO) study of 26 February 1990, for example, found a "pattern of evidence indicating racial disparities in the charging, sentencing and imposition of the death penalty" and concluded that "those who murdered whites were found more likely to be sentenced to death than those who murdered blacks". In late 1988, Congress enacted the death penalty for murders committed by drug dealers. Of those targeted for death under this law between 1988 and 1993, 73 per cent were Black and 13 per cent Latino. As of September 1993, all of the subjects of death penalty prosecutions reportedly approved by the Clinton Administration have been Black. According to a 1992 report by the National Association for the Advancement of Colored People (NAACP) Legal Defense and Educational Fund, of the 2,588 persons then on death row, almost half (48.6 per cent) were people of colour: 38.9 were Black, 7.1 were Latino, 1.8 were Native American, 0.73 were Asian Americans and 0.50 per cent were unknown. In 1994, Congress none the less rejected a provision of the Crime Bill designed to ban the death penalty when it had manifestly been called for on racist grounds. 34/

G. Police violence

64. The GAO recently found in the wake of the Los Angeles rebellion that 47,000 claims of police brutality had been registered with the Justice Department over a period of seven years. That a national phenomenon had been identified, in the opinion of many, needed no further proof. However, under the Administration of President Bush, the Justice Department continued to suggest that no discernible pattern of abuse existed and further asserted that complaints did not actually prove that any violations had occurred. The GAO study revealed, from a representative sample of 15,000 cases, that not only did a pattern of abuse exist, but that there were 181 identifiable jurisdictions within which the issue of police brutality was most pronounced. For most observers, the only thing unique about the Rodney King beating was that it was caught on video tape and that he lived to tell about it; others died as a consequence of police beatings.

65. The use of excessive force by police against African Americans, Asian Americans, Arabs and Indians has been cited as one of the most pressing human rights problems facing the United States. Many testimonies that the Special Rapporteur is not able to reproduce here, owing to lack of space, were heard on this issue during the hearings attended by him in New York on 15 October 1994. Currently, no federal law exists that specifically addresses

the issue of police brutality in the United States. A proposed legislative amendment that would have addressed these issues was dropped from the recently passed omnibus Crime Bill.

66. Part of the training received by police officers in their academy is responsible for their violent behaviour. One participant in the World Council of Churches hearings in Washington, a retired police officer, who met the Special Rapporteur stated that "in training, we practise shooting at a black target on a white background. The police hesitate to use - or even draw guns on - Whites. They never hesitate with Blacks. In a training video, every criminal portrayed is Black". He went on to say: "When a young Black man enters the police academy, there is a 22-week metamorphosis. He often goes in planning to be a helper in his community and emerges reflecting the mores of the force. The result is that some Black policemen also act brutally". 35/

H. Incitement to racial hatred and racist violence

67. Incitement to racial hatred has to be considered in conjunction with racist violence. Both are propagated by extreme right-wing movements and organizations, the neo-Nazi groups whose number is constantly increasing and whose influence is spreading. 36/ The main organizations are the following: Northern Hammerskins, Ku Klux Klan, Aryan Resistance League and SS of America, White Aryan Resistance and Church of the Creator. The following figures, provided by the Anti-Defamation League (ADL) give an idea of the racist organizations operating in the United States:

> "[a] current survey of the number of racist Skinheads in the United States shows a total of approximately 3,300 to 3,500, in 160 gangs, located in 40 States. These figures represent further growth since ADL's last count in 1990. The seven States with the greatest number of Skinheads are: New Jersey (400), Texas (300 to 400), Oregon (300), Colorado (200), Florida (200), Michigan (200) and Virginia (200)." 37/

These organizations disseminate their racist propaganda against Jews, African Americans, Latinos, Arabs and other so-called coloured people through the radio stations they own, graffiti, posters, anonymous telephone calls, public demonstrations and rallies.

68. Where Arab Americans in particular are concerned, the American Arab Anti-Discrimination Committee considers that there is a direct correlation between violence, intimidation and heinous crimes against Arab Americans and political tension in the Middle East. The Committee recorded a "300 per cent increase in hate crime activity" directed against this group during the Gulf War in 1991. The Committee also makes the point that the media and the educational system help to spread prejudice and stereotypes where Arabs are concerned. 38/ The image of Arabs propagated in the United States is analysed in this criticism by Jack Shaheen, professor of communications at Southern Illinois University:

> "The typical screen Arab can be summarized in a handful of clichés: he uses terrorism and/or oil as a weapon against civil societies. He supposedly worships a different deity than Jews and Christians, and is

opposed to both religions. He treats women of his race as chattel, but prefers to kidnap and rape White, western women. He delights in the torture of innocents. Although often presented as a coward, at the same time he willingly dies for his cause, because, we are led to believe, he does not appreciate human life as 'we do'." 39/

69. Racist violence in the United States takes on many different forms and manifestations. The various types of racist violence include killings, death threats, vandalism, assaults, bomb threats, bombings, arson and acts of harassment. The different forms include random and organized violence and can be expressed as police brutality, or attacks on immigrants which largely go unreported. Alongside the violence by police and bigoted individuals, violence by organized groups is increasing.

70. During the 1980s, Black women were murdered in record numbers in Boston; elderly women were shot by klansmen in Chattanooga; others were lynched in Georgia and Alabama; and still others were shot down in the street. Additionally, evidence exists to suggest that many of the unsolved disappearances may be a result of dozens of African Americans being kidnapped off city streets and hunted for fun by White supremacist groups. 40/

71. The pattern of increased racist violence, such as cross burnings, racial attacks, bombings and harassment, has been documented by a number of organizations, including the Center for Democratic Renewal. 41/ The propagation of racist ideas and the practice of racial discrimination are subjects of great concern. However, knowledge of the extent of racist violence in the United States continues to suffer from the lack of a uniform and accurate source of information. Various social justice organizations and anti-racist groups have nevertheless collected data revealing a chilling reality of racist attacks and acts of intimidation which have gone unpunished. The following information provides a glimpse of the problem and practice of racist violence in the United States.

72. Statistics released by the Federal Bureau of Investigation (FBI) in compliance with the Hate Crimes Statistics Act 42/ reveal that 2,771 law enforcement agencies in 32 states cooperated with the Act. The figures listed 4,558 hate crime incidents involving 4,755 offences in 1991, the first year the Act was in effect. Of these incidents, 33 per cent were listed as crimes of intimidation; 27 per cent involved property destruction, damage or vandalism; 17 per cent were simple assaults; 16 per cent were aggravated assaults, and 3 per cent were robberies. 43/ At least one out of five people of colour experience victimization based on prejudice every year.

73. In an independent study carried out by the American Jewish Committee, 4,755 offences listed by the Department of Justice were examined: more than 75 per cent of the hate crimes that were racially motivated were directed at African Americans; of 917 hate crimes motivated by religious differences, 87 per cent were directed at Jews. 44/ During the 1980s in Los Angeles County, nearly 15 per cent of all racial violence was directed against Asian Americans. 45/

74. In a nationwide survey of college newspaper editors, it was revealed that on 7 out of every 10 campuses there is at least one incident of racial violence every school year. There are close to 3,000 colleges and universities in the United States. 46/

75. In the State of Texas, a skinhead activist was tried and convicted of murdering an elderly Black man but was only sentenced to 10 years' probation by a White jury; in Florida, a Black tourist was kidnapped on New Year's Eve 1992 by three White men shouting racial slurs, who then doused him with gas, set him afire and left him for dead; in Georgia, Mexican Americans were targeted by the Ku Klux Klan; the constant intimidation and harassment caused a number of families to move out of the State; in the State of Washington, an Ethiopian immigrant was beaten to death by neo-Nazis and skinhead activists; in North Carolina, a Native American political activist was murdered under mysterious circumstances after he exposed corruption among local officials; in Maryland, two women of colour were chased by Whites, doused with kerosene and would have been set on fire, except for the intervention of neighbours; in California and Washington State, the local offices of the National Association for the Advancement of Coloured People (NAACP) were bombed in the same week; a few years earlier the organization's southern regional office and Jacksonville, Florida branch offices had received letter bombs. An NAACP attorney was killed by a letter bomb that same year.

I. Antisemitism

76. Antisemitism is on the rise in the United States; it is associated with anti-zionism and the denial of the Jewish holocaust. Its most virulent expressions are to be found in the political activities of prominent leaders such as Patrick Buchanan and David Duke, a former candidate in the 1992 presidential elections. Jewish organizations also attribute antisemitic tendencies to the leader of the Nation of Islam, Louis Farrakhan, and speak of an alliance between the Black Caucus - the group of Black Congressmen - and this organization. 47/ It is worth mentioning that relations between the African American and Jewish communities, which were extremely close during the civil rights struggle (1950-1960), gradually deteriorated into mutual mistrust and wrangling. 48/ In recent years, African Americans have rekindled old animosity about the involvement of Jewish shipowners and merchants in the slave trade and denounced Jewish opposition to affirmative action programmes, etc. In turn, the Jews have complained of collusion between African American leaders and the Nation of Islam and the support given by its leader, Louis Farrakhan, to antisemitic arguments. Efforts are under way to bring the two communities together - both of them being faced with racism themselves. 49/

77. Antisemitism is not just propagated by political leaders, but also by the extreme right-wing and neo-nazi movements and organizations referred to in the previous section. Mention should also be made of the Liberty Lobby, the most important antisemitic propaganda organization in the United States, according to the Institute of Jewish Affairs. The Lobby, which was founded in 1958 by Willis A. Carto, publishes a newspaper, Spotlight, for 800,000 readers and also owns a radio station, Free America, relayed by 300 other radio stations

which broadcast its messages in Europe, the Middle East and elsewhere. 50/ An increase in antisemitic incidents was noted in 1993, when there were 1,867 cases, an 8 per cent increase over 1992. 51/

J. Immigration and the right of asylum

78. There are no longer any discriminatory criteria in official United States immigration policy, as was the case until 1965, when the quota system based on national origin was abolished. 52/ According to figures provided by the Immigration and Naturalization Service, the majority of immigrants who lawfully entered the United States in 1992 and 1993 were of Asian origin. They were followed by those from North America, Europe, the Caribbean, Central and South America. The largest contingents of immigrants were from Mexico, China, the Philippines, Viet Nam, the former Soviet Union, the Dominican Republic and India.

79. During the decade 1980-1990, the United States experienced a massive influx of so-called illegal or undocumented immigrants, which led to a tightening up of border controls, 53/ systematic deportations and a climate of hostility towards immigrants in several States, particularly southern ones. Several cases of violence on the part of the border police towards undocumented Mexican immigrants were drawn to the Special Rapporteur's attention by the Mexican authorities. A petition submitted in August 1992 to the Inter-American Commission on Human Rights by a group of lawyers representing several non-governmental human rights organizations had the following to say:

> "Petitioners allege that the U.S. Government's Immigration and Naturalization Service (INS) and Border Patrol have tolerated and thereby encouraged shootings, improper use of firearms and other weapons, beatings, physical abuse and racially motivated verbal abuse of immigrants, refugees and U.S. citizens travelling across or in close proximity to the U.S.-Mexico border. The U.S. Government has authorized a de facto 'iron fist' policy along the U.S.-Mexico border, authorizing U.S. Border Patrol agents to use deadly force by firing upon Mexican nationals who sometimes throw stones at U.S. agents, or attempt to flee back into Mexico, during border-crossing encounters with U.S. officials. This 'iron fist' policy has resulted in escalating violence along the U.S.-Mexico border, and the unnecessary maiming and killing of numerous Mexican nationals. Because of their indigency, fear of exposure to arrest and deportation, and lack of knowledge of their legal rights, few migrants unjustifiably injured in these incidents, or families of those killed, seek redress in the U.S. courts. Because of the costs of litigation, technicalities in U.S. laws, and various judicial 'immunities' which U.S. border agents enjoy, those who do seek compensation in U.S. courts are seldom successful. The pattern of the U.S. Government's response to documentation of severe abuses, including testimony, public charges, formal complaints and litigation, has been perfunctory investigations and minor, if any, punishment of offending officers." 54/

These allegations concern the case of six individuals who were seriously injured or killed by rifle fire from border guards.

Table 2

Immigrants Admitted in Fiscal Years 1992 and 1993
for Regions and Top 15 Countries of Birth a/

Region and country of birth	1993	1992
All regions	880 014	810 635
Europe	157 920	143 729
Asia	357 041	348 553
Africa	27 404	24 826
Oceania	4 804	4 485
North America	279 809	238 552
Caribbean	97 843	84 540
Central America	55 797	47 654
South America	53 036	50 488
Unknown or not reported	-	2
Country of birth: b/		
1. Mexico (1)	109 027	91 332
2. China (6)	65 552	38 735
3. Philippines (3)	63 189	59 179
4. Viet Nam (2)	59 613	77 728
5. Soviet Union (4)	58 568	43 590
6. Dominican Republic (5)	44 886	40 840
7. India (7)	40 021	34 629
8. Poland (8)	27 729	24 837
9. El Salvador (9)	25 517	21 110
10. United Kingdom (10)	18 543	19 757
11. Korea (11)	17 949	18 983
12. Canada (14)	17 081	14 958
13. Jamaica (12)	16 969	16 820
14. Iran (15)	14 700	12 808
15. Taiwan (13) (province of China)	14 309	16 232
Other a/	286 361	279 097

Source: INS Fact Book, Summary of Recent Immigration Data, June 1994.

a/ Includes unknown or not reported country of birth.

b/ Numbers in parenthesis represent rankings based on immigrants admitted in 1992.

80. The report of the Mexican Human Rights Commission - a reliable source of information in this area - also contains a series of allegations relating to the deaths, violation of the physical integrity, unlawful deprivation of liberty and sexual abuse of Mexican migrant workers who cross the United States southern border either lawfully or unlawfully. The report also states that "all along the southern border zone of the United States there have been cases of discriminatory conduct based on ideological concepts whereby persons with a particular phenotype - what are generally known as 'racial characteristics' - are considered inferior. Unfortunately, this type of prejudice affects some Mexicans, and in particular migrant workers". 55/ Several other incidents of a similar kind to those described above were drawn to the Special Rapporteur's attention by the Mexican Consul General in California. The Special Rapporteur intends to ask the Government of the United States for its comments.

81. In addition to these incidents, the overall climate of hostility towards immigrants prevailing in California lies at the root of a number of acts of violence by police officers against migrant workers. In addition, although Proposition 187, which was recently adopted by the California State Legislature, and against which an appeal has been lodged with the Supreme Court, is intended to check clandestine immigration, it contains discriminatory and anti-constitutional provisions, in particular in terms of access to education, to health care and to welfare services by the children of illegal migrant workers. In its 1982 ruling in Plyler vs. Doe, the Supreme Court found that it was anti-constitutional to deny children access to education, regardless of the status of their parents, on the grounds that it violated the Fourteenth Amendment to the Constitution.

82. Regarding the reception given to asylum seekers, there has been controversy about the disproportion between the number of persons admitted from the former USSR and the number of Cubans and Haitians let in at the peak of the crisis in Haiti following on the expulsion of President Jean Bertrand Aristide. In addition, some people believe that the fact that Haitian asylum-seekers alone are obliged to take a test for the AIDS virus and are sent to Guantanamo base without a prior hearing is a discriminatory practice. In general, "the continued existence of the ideological determination of whether one is a 'political' or 'economic' refugee which allows into the United States large numbers of Europeans as opposed to persons from Africa, Asia or Latin America is subject to question". 56/

K. Women and racism

83 Almost 32 million women of colour live in the United States or, in other words, one in four women are from national minority groups, or indigenous nations. Two thirds of Asian American and one third of Latino women are foreign born. These shares are even higher among working age women. Nearly half of Latino women aged 18-64 are immigrants, as are four in five Asian American women. Women comprise three fifths of all poor adults and nearly half of employed women are in lower-paying administrative support and service jobs. In every social category, women of colour are located at the bottom. 57/

84. The poverty rate of families maintained by women is much higher than for other families, the rate of African American female householders with no husband present is higher than for their White counterparts - 50 per cent. Thirty-one per cent of Native American families were maintained by female heads of household. 58/

85. The problem of sex-based wage discrimination has long been recognized as a major obstacle to the full economic equality of women. Women continue to suffer disproportionately from the general economic distress in the country. Despite some gains in the 1980s, based on the decline in the earning power of men, women still earn an average of 72 cents to the dollar earned by men. Moreover, women are often employed in part time or temporary jobs where they lack benefits, such as pensions and health insurance. 59/

86. With respect to housing or the lack thereof, 15 per cent of homeless persons were women in 1988. However, by 1992, it is estimated that close to 30 per cent of the homeless population were women, with women of colour with children the fastest growing sector of the homeless population. In 1989, 77 per cent of all households living in conventional public housing were female headed. Again, a disproportionate number of women of colour were located in public housing.

87. Federal laws designed to protect women and girls from discrimination on the basis of sex in any educational programme that receives federal funds are not effective. Patterns of race and sex discrimination persist in the health care delivery system, from the exclusion of women of colour from important clinical drug trials to their under-representation in the preventive health care system.

L. Racism and the environment

88. The Special Rapporteur received information from several organizations studying the proximity of areas where ethnic minorities and indigenous Indian American populations live to the sites of dangerous or toxic product depots and dumps.

89. After a thorough investigation, the Commission for Racial Justice of the United Church of Christ found that the racial factor was a decisive one in the choice of sites for toxic waste dumps. 60/ In particular, the Commission arrived at the following findings on the basis of information collected from official agencies such as the Environmental Protection Agency and the General Accounting Office:

> "Race proved to be the most significant among variables tested in association with the location of commercial hazardous waste facilities. This represented a consistent national pattern.
>
> Communities with the greatest number of commercial hazardous waste facilities had the highest composition of racial and ethnic residents. In communities with two or more facilities or one of the nation's five largest landfills, the average minority percentage of the population was more than three times that of communities without facilities (38 per cent vs. 12 per cent).

In communities with one commercial hazardous waste facility, the average minority percentage of the population was twice the average minority percentage of the population in communities without such facilities (24 per cent vs. 12 per cent).

Although socio-economic status appeared to play an important role in the location of commercial hazardous waste facilities, race still proved to be more significant. This remained true after the study controlled for urbanization and regional differences. Incomes and home values were substantially lower when communities with commercial facilities were compared to communities in the surrounding counties without facilities.

Three out of the five largest commercial hazardous waste landfills in the United States were located in predominately Black or Hispanic communities. These three landfills accounted for 40 per cent of the total estimated commercial landfill capacity in the nation.

Three out of every five Black and Hispanic Americans lived in communities with controlled toxic waste sites.

More than 15 million Blacks lived in communities with one or more controlled toxic waste sites.

More than 8 million Hispanics lived in communities with one or more uncontrolled toxic waste sites.

Blacks were heavily over-represented in the populations of metropolitan areas with the largest number of uncontrolled toxic waste sites." 61/

90. Robert Bullard, a toxic waste specialist at Clark University, Atlanta, reveals a number of similar facts in his communication to the Special Rapporteur. 62/ He describes the harmful consequences of toxic waste sites for the health of persons of African American, Hispanic, Asian and Indian origin. Cases of malformation have been discovered among children born in these areas. 63/ Cases of cancer have also been found in some locations.

91. The highest United States authorities have acknowledged the seriousness of the situation and adopted measures to deal with it. Thus, in July and December 1993 at meetings in Indianapolis and Washington of the National Association for the Advancement of Colored People (NAACP) and of the African American Church, two influential African American organizations, Mr. Al Gore, the Vice-President of the United States, recognized that discrimination in the environmental sphere was a national problem and announced that the administration would turn its attention to it. In 1993, Congress adopted legislation, the Environmental Justice Act and the Environmental Health Equity Information Act, intended to prevent the location of toxic waste sites in areas inhabited by ethnic minorities. On 11 February 1994, President Clinton signed an order on justice in the environmental sphere.

IV. MEASURES TAKEN BY THE GOVERNMENT AND ACTION BY SOCIETY AT LARGE

A. Measures taken by the Government

92. The body of United States legislation designed to protect citizens or residents from racism and racial discrimination contains constitutional, legislative and regulatory provisions in the spheres of health, housing, education, access to public goods and services, the provision of goods and services by private individuals, and in various civil and political spheres. It also makes available various remedies. 64/

93. The equal protection clause of the Fourteenth Amendment to the United States Constitution precludes any state from denying its citizens the "equal protection of the law". This clause essentially operates to protect minorities by requiring that all people "similarly situated" receive equal treatment under the law. It also prohibits unjustifiable legal distinctions among different classes of people. The equal protection clause, however, does not govern the actions of the federal Government. Federal Government classifications that would otherwise violate the equal protection clause may be challenged under the due process clause of the Fifth Amendment. The Fifth Amendment precludes the federal Government from denying its citizens equal protection of the laws: "no person shall be deprived of life, liberty, or property, without due process of law". The standards for judicial review under the due process and equal protection clauses are identical.

94. Six major civil rights laws which have been established in the past 30 years are central to anti-discrimination law in the United States. They are often used in conjunction with constitutional or statutory protections.

Table 3

Civil right	Statute/date	Responsible agency
Public accommodations	Title II, Civil Rights Act, 1964	Department of Justice
Equal education	Titles IV and VI, Civil Rights Act, 1964	Department of Justice, Education
Employment	Title VII, Civil Rights Act, 1964	Equal Employment Opportunity Commission, Justice Department
Voting rights	Voting Rights Act 1965	Department of Justice
Fair housing	Title VIII, Housing Act 1968	Department of Housing and Urban Development
Credit	Equal Credit Opportunity	Department of Justice

There are five primary agencies in the United States whose activities are aimed at the examination and elimination of various forms of racial discrimination and segregation. Employment, educational and housing discrimination are each handled by separate offices or agencies.

95. The principal civil rights enforcement agency in the United States is the Department of Justice, which has singular as well as overlapping enforcement authority regarding a number of different statutes which involve coordination with a broad range of other federal agencies. The Department of Justice is responsible for enforcing statutes guaranteeing the right to register and vote without discrimination or intimidation, which includes assigning federal personnel to conduct voter registration and determine whether changes in voting provisions are discriminatory. They also litigate cases of employment discrimination by public sector employers. In addition, the Department of Justice has a unit which represents the federal Government in school desegregation law suits based on Title IV, other statutory grounds, or on the Constitution. This unit also monitors court orders. The Housing and Civil Enforcement Division at the Department of Justice is responsible for bringing suits relating to patterns and practices of discrimination prohibited by the Fair Housing Amendments Act of 1988 and by fair lending statutes.

96. Title II of the Civil Rights Act of 1964 prohibits discrimination or segregation in places of public accommodation. The law states that all persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of any place of public accommodations without discrimination or segregation on the ground of race, colour, religion or national origin.

97. Title VI of the Civil Rights Act of 1964 prohibits discrimination in all federally-assisted programmes and activities based on race, colour or national origin. The law states that no person in the United States shall, on the ground of race, colour or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any programme or activity receiving federal financial assistance.

98. Title VII of the Civil Rights Act of 1964 prohibits employment discrimination based on race, colour, religion, national origin or sex. Employers covered include those persons with 15 or more employees, as well as state and local governments. The Equal Employment Opportunity Commission (EEOC) is an independent agency which enforces all aspects of Title VII, except litigation involving state and local governments, which is handled by the Department of Justice. EEOC handles all complaints of employment discrimination and funds many state and local government agencies to investigate and process such cases.

99. The Voting Rights Act of 1965 guarantees the right to register and vote without discrimination or intimidation. Under the Voting Rights Act, the Department of Justice is responsible for preventing government officials and private parties from using voting practices to exclude minorities from full participation in the electoral process.

100. Title VIII of the Housing Act of 1968 prohibited discrimination based on race, colour, religion, sex or national origin in the sale, rental,

advertising and financing of housing. The Fair Housing Amendments Act of 1988 now provides the federal Government with substantially improved enforcement powers, the right to file suit on behalf of aggrieved parties in the Federal Court and the right to impose substantial monetary damages to defendants.

101. The Commission on Civil Rights is the major machinery for fighting discrimination in the United States. Its mandate has grown considerably as the scope of civil rights has expanded over the years. Today, the Commission is charged with investigating patterns of discrimination or denial of equal protection of the laws on the basis of race, colour, religion, sex, age, disability or national origin. Since its creation in 1957, the Commission has established facts and recommended solutions. Although it has no enforcement authority, its investigations into the effects of discrimination have proved relevant and accurate. Over the years, the Commission's findings and reports have furnished the basis for countless public and private actions to combat inequality of opportunity in the United States. The Commission's recommendations have found their way into numerous laws, executive orders and policies. Civil rights acts from 1960 onwards reflect Commission recommendations. Two major examples of such recommendations that have become law are Title VI of the 1964 Civil Rights Act, which prohibits discrimination in federally assisted programmes, and the Voting Rights Act of 1965, which provided for the assignment of federal examiners to areas where citizens experience difficulty in registering to vote.

102. As is clear from the preceding paragraphs, there is no lack of legislation against racism and racial discrimination in the United States. Without wishing to repeat himself, the Special Rapporteur has drawn on numerous accounts and documents provided by reliable sources and has concluded that all too often the law is circumvented or violated by federal or State agents and individuals. In addition, economic and social conditions inherited from the past, which the law has not yet succeeded in totally eliminating, restrict its impact. As a result, de facto segregation may persist, for economic reasons, in housing and education, even though the law prohibits any form of segregation; de facto segregation may also persist in access to health care. Victims of police brutality may, because of their lack of education or resources, be unaware of the remedies available to them to obtain redress.

103. For its part, the Commission on Civil Rights recognizes the limits of the law when it says the following:

> "Although the successes of some minorities and women may make it appear to some that civil rights are the norm in America, in fact, they are not. Civil rights law enforcement in areas such as education, housing, employment, and economic development has deteriorated steadily in recent years, and today, is incapable of meeting the social and economic challenges facing our increasingly diverse Nation. Failure to realize the promise of civil rights laws is a root cause of the rising tensions among our diverse racial and ethnic communities." 66/

104. In other words, even when cases of racism or racial discrimination are brought before the courts, the victims do not always obtain redress, on account of the growing reluctance of many judges to take into account a racist intent or motive in dealing with crimes. This trend among the judiciary is

perhaps attributable to a paradoxical view that since racism and racial discrimination are no longer current in American society and all American citizens are on an equal footing, to take into consideration the racist motive or intent in judging offences would be to place ethnic or racial minorities in a special judicial situation. This accounts for the strict criteria necessary for an offence to be classified as racist and the frequent tendency to dismiss cases or to hand down light penalties to persons guilty of racist offences. This tendency among the judiciary is aptly described by Aviam Soifer when he observes that "today, only a smoking gun - i.e. incontrovertible proof of a specific racially discriminatory motive that an individual plaintiff can tie directly to his or her own plight - will move Court to acknowledge that discrimination, even against African Americans, may still be legally relevant". 67/ None the less, there are reservations about the judicial neutrality which the courts claim to observe and guarantee, in so far as racism and racial discrimination are not simply remnants of the past, but persist indirectly, insidiously and subtly in American society. Moreover, when it is persons belonging to ethnic minorities who are before the courts, it would appear, as is confirmed by the disparity in death penalty statistics, that the principle of the neutrality of the courts is neither the rule nor the practice.

105. There is another factor which undermines the implementation of anti-discriminatory legislation: the composition of juries. As ethnic minorities are barely represented on juries, the verdicts handed down by the courts when they hear cases resulting from racist acts or racial discrimination are often biased or unjust.

106. There is no legislation to prohibit incitement to racial hatred and the activities of racist organizations because of the sacrosanct nature of the First Amendment to the Constitution, which guarantees total freedom of expression and association, regardless of the ideas expressed and aims pursued by an association. This explains the reservations expressed by the United States Government with regard to article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination and article 20 of the International Covenant on Civil and Political Rights. 68/ The Special Rapporteur is concerned about the influence exerted through the media by the activities of racist organizations, which freely broadcast their propaganda over the radio and participate in numerous television talkshows. Like the International Council of Jewish Women, he wonders whether racist arguments which threaten the very foundations of democracy should benefit from human rights safeguards. 69/

107. The Rapporteur is also disturbed by the way the United States Supreme Court is moving in its decisions on freedom of expression. In its decision R.A.V. vs. City of St. Paul, Minnesota, 60 U.S.L. 4667 (22 June 1992), the Supreme Court found that the burning of crosses - a form of intimidation commonly employed by members of the Ku Klux Klan to terrorize African Americans - was a form of freedom of expression protected by the Constitution. 70/

B. Action by society at large

108. The United States possesses what must be the densest web of community organizations in the world, which acts as a rampart against racism and racial discrimination in American society. The civil rights movement of the 1950s and 1960s left American society with a legacy of numerous religious or secular, ethnic or cross-ethnic organizations that unceasingly combat racism and racial discrimination and strive to bring together the different communities in the United States. Thanks to their vigilance and their readiness to protest, the studies they carry out and their capacity to mobilize public opinion, they succeed in influencing government policy and getting Congress to adopt laws against racism and racial discrimination. At the time of the Special Rapporteur's mission, the National Council of the Churches of Christ of the United States and the World Council of Churches were mobilizing public opinion through hearings of witnesses and victims of racism, and the Special Rapporteur has been able to make use of the information thus gathered.

109. Organizations such as the National Association for the Advancement of Colored People, the American Civil Liberties Union, the Center for Constitutional Rights, the Center for Democratic Renewal, the Mexican-American Legal Defense Fund, the American-Arabs Anti-Discrimination Committee, the Asian Pacific American Legal Center and several others provide legal aid to the victims of racism and racial discrimination through their teams of lawyers. Others such as the Anti-Defamation League and the American Jewish Committee perform an acknowledged monitoring function. The Baha'i community in the United States preaches a message of peace and unity, which is reflected in its education projects and petitions to the President of the United States.

110. Action by community associations frequently converges with that of some municipalities. Thus, the Special Rapporteur was able to appreciate the efforts made by the City of Washington to combat racial discrimination in the economic and social sphere and to eliminate police violence towards members of ethnic minorities. The City of New York has a human rights commission to which anyone whose rights are violated may turn. In Atlanta, there is a commission responsible for inter-community relations, which provides a forum for dialogue and acts as an instrument of mediation, and which concerns itself with finding solutions in the spheres of education, housing, trade, employment and justice.

V. CONCLUSIONS AND RECOMMENDATIONS

111. As he comes to the end of his investigation, the Special Rapporteur believes he can say that racism and racial discrimination persist in American society, even if not as a result of a deliberate policy on the part of the United States Government.

112. The Special Rapporteur found sociological inertia, structural obstacles and individual resistance hindering the emergence of an integrated society based on the equal dignity of the members of the American nation and willing to accept ethnic and cultural pluralism. Vested interests, competing influences and the power struggle between the various political and social components of American society also provide opportunities for residual racism

and racial discrimination to linger on. Accordingly, the Special Rapporteur makes the following recommendations to the United States Government.

1. It should be explicitly acknowledged that 30 years of intense struggle against racism and racial discrimination have not yet made it possible to eliminate the consequences of over 300 years of slavery and racial discrimination, particularly where African Americans are concerned.

2. It should be recognized that when persons from ethnic minorities aspire to equal treatment, they are not asking for favours, but seeking to enjoy the rights guaranteed by the United States Constitution in their daily lives by virtue of their status as full citizens or lawful residents.

3. Affirmative action programmes should be revitalized in order to offset the negative consequences of the policy pursued during the 1980s in the fields of health, housing, education and employment.

4. Measures should be taken to prohibit the establishment of racist organizations and ban racist propaganda.

5. Measures should be taken to abolish the death penalty, or failing that, to eliminate discriminatory application of the penalty.

6. The Government, in conjunction with the State authorities, should ensure that the police do not use violence against persons belonging to ethnic or racial minorities; Congress should adopt laws to permit the criminal prosecution of police officers who use excessive force under the guise of enforcing the law.

7. Effective, and in particular financial, support should be provided for organizations which combat racism and racial discrimination and which work for and contribute to peaceful coexistence between the different communities.

8. Measures should be taken to eliminate racial discrimination against women from ethnic minorities, particularly in terms of employment, wages and access to health care.

9. In the sphere of education, measures should be taken to increase funding for public schools and to ensure the equitable distribution of funds.

10. The media should be encouraged to refrain from propagating stereotypes and to devote themselves to educating the public by disseminating the principles of human rights.

11. Everyone must be persuaded to accept the existence of the indissoluble link between civil and political rights and the economic, social and cultural rights which are their natural corollary. Consequently, the Special Rapporteur urges the United States Government to ratify all the international human rights conventions, as a means of strengthening its foreign policy on behalf of peace and democracy and giving it greater credibility.

12. In addition, there should be more vigorous action on behalf of human rights education, in particular for law-enforcement officials. Such a step would promote greater acceptance of one another by the members of the different communities who live in the United States and would encourage sharing between them in the economic and social or even the cultural spheres. To assume fully, and in a genuine democracy, the cultural pluralism which characterizes the American nation is a challenge which the United States is undoubtedly capable of taking up.

Notes

1/ See, for example, the following documents: World Council of Churches, Overview of Campaign on Human Rights Violations in the United States, 1994; United States, Commission on Civil Rights; Intimidation and Violence, Racial and Religious Bigotry in America, September 1990; the statements by the International Association against Torture at the 1992, 1993 and 1994 sessions of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and at the 1993 and 1994 sessions of the Commission on Human Rights; "The Hidden Rage of Successful Blacks", Newsweek, 15 November 1993; Amnesty International, United States of America. The death penalty. Government survey finds pattern of racial disparities in imposition of death penalty, March 1990; Human Rights Watch and American Civil Liberties Union, Human Rights Violations in the United States, Washington, 1994.

2/ None the less, the Special Rapporteur would like to emphasize that the Indians with whom he spoke who represented the League of Indigenous Sovereign Nations of the Western Hemisphere believe that the failure to observe the treaties signed by the Government of the United States with their ancestors, treaties which guaranteed the sovereignty of the signatory Indian Nations, constitutes an act of discrimination. Representatives of the Mohawk and Piscataway Nations said in particular that "The Mohawk Nation undergoes State-sponsored racial brutality and impoverishment when they exercise their unrelinquished right to determine their own development as an intact nation. The Piscataway Nation, despite constitutional guarantees to religious freedom, cannot practice their spirituality without the permission of white landowners and the National Park Service."

3/ Reference was made in communications received by the Special Rapporteur and in discussions with official departments to discriminatory and brutal treatment of migrant workers from Mexico; of racist acts by the police and prison warders, discriminatory judicial practices in Mississippi, with the encouragement of the highest State authorities and judges.

4/ The names of these organizations are given in the annex, in the schedule of the Special Rapporteur's mission.

5/ Communication to the Special Rapporteur from the African American Human Rights Foundation, Washington, 12 October 1994.

6/ The Government of the United States ratified, inter alia, the International Covenant on Civil and Political Rights, on 2 April 1992, and the International Convention on the Elimination of All Forms of Racial Discrimination, on 24 June 1994.

7/ Communication to the Special Rapporteur from the Center for Constitutional Rights, New York, 17 October 1994.

8/ Vine Deloria, Exile in the Land of the Free. Democracy, Indian Nations and the US Constitution, Santa Fe, Clear Light, 1992, p. 125.

9/ The Bell Curve, Intelligence and Class Structure in American Life, New York, The Free Press, 1994.

10/ United States Commission on Civil Rights, Factsheet 1993, p. 1.

11/ This view was expressed by several witnesses at hearings held in New York on 15 October, as well as by the sociologist Loretta Williams, in her discussion with the Special Rapporteur on 18 October in New York.

12/ For example, "a new mythology provided the ideological cannon fodder for the attack on the poor and people of color. That mythology equates growth in poverty to growth in an underclass which is primarily Black, Latino and female. This was the basis for the myth of the 'welfare queen'. The increase in poverty is said to be the result of the growth of this sector of the population, not economic factors", Communication, dated 12 October 1994 from The African American Human Rights Foundation to the Special Rapporteur, p. 17. The Center for Democratic Renewal also stated that "politicians and others who use racial fears to promote their campaigns usually base their demagoguery on myths about poverty, welfare and race, leading their followers to conclude that African Americans or immigrants are responsible for the nation's woes and demands for 'solutions' targeting specific ethnic groups"; see, When Hate Groups Come to Town. Handbook of Effective Community Responses, Atlanta, 1992, p. 184.

13/ See, Joe R. Feagin and Melvin P. Sikes, Living with Racism, the Black Middle-Class Experience, Boston, Beacon Press 1994; "The Hidden Race of Successful Blacks", Newsweek, 15 November 1993.

14/ Taken from the statement by the World Council of Churches (WCC)/National Council of the Churches of Christ in the United States (NCC/USA), Eminent Persons Team which Conducted Hearings on Racism as a Violation of Human Rights in the United States (19 October 1994). See also the concurring statements by Human Rights Watch and the American Civil Liberties Union in Human Rights Violations in the United States, Washington, 1994, p. 5; Human Rights and Peace Law Docket 1945-1993. Excerpts for United Nations Special Rapporteur on Contemporary Forms of Racism, edited by Anne Fagan Ginger, Meiklejohn Civil Liberties Institute, Berkeley, 1994.

15/ A call to Arms, the State of African American Health, edited by J. William-Myers, New York African American Institute, State University of New York, 1991, p. 3.

16/ Ibid.

17/ D. La Salle and M.D. Leffall, Jr, "Health Status of Black Americans", in The State of Black America, 1990, National Urban League, Inc., New York, 1990, p. 137.

18/ Interview on 11 October 1994 with Mr. Dennis Hayashi, Director of the Civil Rights Department, Department of Health and Human Services.

19/ Ibid.

20/ Statement made at the hearings on 15 October 1994 in New York.

21/ Making the Union a Reality, A Latino Action Agenda for Educational Reform, Final Report of the Latino Commission on Educational Reform, New York, March 1994, p. 3.

22/ Human Rights Violations in the United States, op. cit, p. 18. It has also been demonstrated that Latin Americans are heavily concentrated in certain districts of New York and Los Angeles.

23/ Quitman County Development Organization, Marks, Mississippi, Paper on the condition of housing in America, submitted at the World Council of Churches Hearings on Racism as a Violation of Human Rights in the United States (8-19 October 1994).

24/ Ibid.

25/ Centre for Constitutional Rights Docket, New York, Spring 1994, p. 92.

26/ Figures provided by the African American Human Rights Foundation and confirmed by the Hearings on Racism organized by the International Association against Torture in New York on 15 October 1994.

27/ The cases are the following: (1) Patterson v. McLean Credit Union, 491 U.S. 164 (1989); (2) Martin v. Wilks, 490 U.S. 755 (1989); (3) Lorance v. AT & T Technologies, Inc. 490 U.S 900 (1989); (4) Price-Waterhouse v. Hopkins 490 U.S 228 (1989); (5) Wards Cove Packing Co. v. Atonio, 490 U.S 642 (1989). For explanatory details, see Human Rights Violations in the United States, op. cit, pp. 25-28.

28/ See May A. Fisher, "The Feds War Against Black Pols", Gentlemen's Quarterly, December 1993, pp. 242-250.

29/ Cited by Clarance Lusane, Pipe Dream Blues. Racism and the War on Drugs, Boston, South End Press, 1991. See also the communication from the Centre for Constitutional Rights, New York, 17 October 1994.

30/ Communication from the African American Human Rights Foundation, Washington, 12 October 1994.

31/ Ibid.

32/ Communication from the Centre for Constitutional Rights, New York, 17 October 1994.

33/ Racial Disparities in Federal Death Penalty Prosecutions 1988-1994, report of the Sub-Committee on Civil and Constitutional Rights Committee on the Judiciary, presented at the 103rd Congress (2nd session), March 1994. "United States of America. The Death Penalty: Government Survey Finds Pattern of Racial Disparities in Imposition of Death Penalty", Amnesty International, March 1990 (AI Index: AMR 50/08/90). Human Rights Violations in the United States, Human Rights Watch, 1992.

34/ See chapter 177, "Racial Discriminatory Capital Sentencing" of the Crime Bill.

35/ Ronald Hampton, Executive Director of the National Black Police Association.

36/ Young Nazi Killers: The Rising Skinhead Danger, An Anti-Defamation League Special Report, New York, 1993.

37/ Ibid., p. 3.

38/ Communication dated 13 October 1994 from the American-Arab Anti-Discrimination Committee.

39/ Jack Shaheen, "The Arab Stereotype: Villain Without a Human Face", Extra, vol. 5, No. 5, July/August 1992.

40/ Center for Democratic Renewal; When Hate Groups Come to Town. Handbook of Effective Community Responses, Atlanta, 1992, p. 82.

41/ Ibid.

42/ The Hate Crimes Statistics Act was passed in April 1990 and requires the Justice Department to spend five years gathering data on crimes motivated by prejudice based on race, religious or ethnic background, or sexual orientation.

43/ Center for Democratic Renewal, Fact Sheet on Hate Crime, Atlanta, p. 2.

44/ Ibid.

45/ It should be noted that Asian Americans are often called a model minority because of their relative integration into American society, but, as the Special Rapporteur was told, it is a stereotype which ignores the long history of exclusion and discrimination which continues today.

46/ See also United States Commission on Civil Rights, Bigotry and Violence on American College Campuses, Washington, D.C., October 1990.

47/ Antisemitism. World Report 1994, Institute of Jewish Affairs, London 1994, p. 226.

48/ The Special Rapporteur would like to point out that tension between African Americans and Jews is one facet of the conflicts that can exist between ethnic minorities or within the ethnic minorities themselves. Relations between these minorities, which have inherited the ethnic and racial prejudices developed by American society, or which seek to benefit from social stratification based on racial or ethnic identity, may be deeply marked by latent hostility, by a degree of disdain or indifference, if they do not simply degenerate into violent conflict, as is sporadically the case between African Americans and Koreans, between Latinos and African Americans.

49/ The American Jewish Committee, Strategy and Action Plan for Black-Jewish Relations, New York, 1994.

50/ Antisemitism, op. cit., p. 228.

51/ Ibid., p. 227.

52/ Until 1965, preference was given to migrants of European and in particular British origin. Immigration of Asians was tightly restricted.

53/ On 16 February 1994, Mr. Manuel Tello, Mexican Minister for Foreign Affairs, said that "the Mexican Government remains concerned about the hardening of measures against immigrants in the border area, because the problem will only be resolved in the long term and with specific rather than police measures". Extract from a BBC report dated 18 February 1994.

54/ Petition to the Inter-American Commission on Human Rights of the Organization of American States (12 August 1992), communicated to the Special Rapporteur by the Mexican Government.

55/ National Human Rights Commission, Report on Violations of the Human Rights of Mexican Migrant Workers as they travel to the Northern Border, as they Cross It and as They Enter the Frontier Zone of the United States, Mexico, 1991, p. 34.

56/ Communication of the African American Human Rights Foundation, Washington, 12 October 1994.

57/ Human Rights Watch and American Civil Liberties Union, Human Rights Violations in the United States, Washington, 1994, pp. 5 and 37.

58/ "A world without fathers. The struggle to save the black family", Newsweek, 30 August 1993, p. 18.

59/ Human Rights Watch and American Civil Liberties, op. cit.

60/ Commission for Racial Justice, Toxic Wastes and Race in the United States, New York, 1987.

61/ Commission for Racial Justice, op. cit, excerpt from the executive summary.

62/ Robert D. Bullard, "Confronting Environmental Racism in the U.S. and Abroad", Testimony prepared for the United Nations Special Rapporteur on Contemporary Forms of Racism, Atlanta, October 1994.

63/ "A study from Yale University School of Medicine and the New York Department of Health (Geschwind et. al., 1992), which reviewed the relationship between birth defects and residence near inactive hazardous waste sites, found a statistically significant 12 per cent increase in the incidence of birth defects in babies born to mothers living near toxic sites". In Robert D. Bullard and Beverly Wright, "Environmental justice for all: community perspectives on health and research needs", Toxicology and Industrial Health, vol. 9, No. 5, 1993, p. 828.

64/ The Special Rapporteur has deliberately restricted himself to federal legislation, although he is of course aware that there are numerous state anti-racist and anti-discriminatory laws. Forty-one States have laws against racially-motivated hate crimes.

66/ United States Commission on Civil Rights, Factsheet 1993, p. 2.

67/ Aviam Soifer, "On being overly discreet and insular: Involuntary groups and the Anglo-American judicial tradition", in The Protection of Minorities and Human Rights, edited by Yoram Dinstein and Mala Tabory, 1992, p. 2.

68/ These two articles require States parties to adopt measures to prohibit, on the one hand, incitement to racial hatred and, on the other, organizations which incite racial discrimination and their activities.

69/ In its communication to the Special Rapporteur, dated 21 October 1994, the International Council of Jewish Women stated that "in the United States, the interpretation of the First Amendment to the Constitution makes it possible to disseminate all kinds of ideas, even anti-democratic ones. This should lead us to examine the acceptable limits of freedom of expression in the light of the concept set out in article 20 of the International Covenant on Civil and Political Rights, which prohibits incitement to racial hatred".

70/ The case in question concerned a White adolescent who had burned a cross on property belonging to an African American family in order to intimidate them and force them to move.

Annex

SCHEDULE OF THE MISSION OF THE SPECIAL RAPPORTEUR ON CONTEMPORARY FORMS OF RACISM TO THE UNITED STATES OF AMERICA

(9-22 October 1994)

Sunday, 9 October

Arrival Washington D.C.

Monday, 10 October (Columbus Day)

Preparation for the meetings

Tuesday, 11 October

9 a.m. Meeting with Mr. Dennis Hayashi
Director of Civil Rights Department
Department of Health and Human Services

11.30 a.m. Meeting with Bo Cooper, Ralph Thomas and James Lassiter
Immigration and Naturalization Service

1 p.m. Working Lunch with Mr. Joel Spiro
Acting Deputy Assistant Secretary of State

Ms. Nancy Ely Rafle
Deputy Secretary of State for Human Rights
Department of State

2.30 p.m. Meeting with Ms. Ada E. Deer
Assistant Secretary for Indian Affairs
Bureau of Indian Affairs

4.30 p.m. Meeting with Mr. Merrick Malone
Assistant City Administrator for Economic Development
Office of the Mayor of Washington

Wednesday, 12 October

9 a.m. Meeting with Mr. Policarpio Marmojelos
Special Assistant to Assistant Attorney General for Civil Rights
Department of Justice

10.30 a.m. Meeting with Ms. Barbara Brooks
Deputy Director for Public Affairs
United States Commission on Civil Rights

3 p.m. Meeting with Mr. Keith Jennings
President African American Human Rights Foundation

Wednesday, 12 October (continued)

5 p.m. Meeting with Dr. Charles Henry
Director, Office of External Affairs
Bureau of Democracy, Human Rights and Labor
Department of State

Thursday, 13 October

10.30 a.m. Meeting with Mr. Gene Guerrero
Field Director
American Civil Liberties Union

11.30 a.m. Meeting with Mr. Ron Hampton
Executive Director
National Black Police Association

12 noon Meeting with Mr. Ken Bowers
Assistant Secretary General
National Spiritual Assembly of Baha'is of the United States

3 p.m. Meeting with Chief Billy Redwing Tayac
League of Indigenous Sovereign Nations

4 p.m. Meeting with Pat Rangel
Amnesty International

4.30 p.m. Meeting with Ms. Candace Lightner
President
American-Arab Anti-Discrimination Committee

Friday, 14 October

9 a.m. Meeting with the Rev. Aaron Tolen
Head of the Eminent Persons Team from the World Council of Churches Campaign "Racism is a Violation of Human Rights"

12 noon Departure for New York

3 p.m. Briefing at Centre for Human Rights Liaison Office
New York

3.30 p.m. Meeting with the Permanent Representative of Mexico to the United Nations

Friday, 14 October (continued)

5 p.m. Meetings with

Mr. Robert Hammel
Deputy Commissioner
Law Enforcement Bureau

Ms. Sara E. Vidal
Deputy Commissioner for Community Relations
New York City Commission on Human Rights

Saturday, 15 October

10 a.m. Hearings at Abyssinian Baptist Church
Organized by the
International Association Against Torture/
December 12th Movement

3 p.m. Hearings at Abyssinian Baptist Church (continued)

Monday, 17 October

9 a.m. Meeting with
Mr. Kenneth Jacobson
Assistant National Director
Anti-Defamation League

Ms. Evelyn Summers
World Jewish Congress

10 a.m. Meeting with the
Rev. Michael Yasutake
Prisoner of Conscience Project Director
United Church of Christ

Ms. Nozomi Ikuta
United Board for Homeland Ministries

Mr. Charles Lee
United Church of Christ Commission for Racial Justice

11 a.m. Mr. Jace Weaver
United Methodist Church

3 p.m. Meeting with Dr. Harris Schoenberg
Director
Coordinating Board of Jewish Organisations

Meeting with Mr. Ron Daniel
Executive Director
Center for Constitutional Rights

Monday, 17 October (continued)

4 p.m. Meeting with Dr. Farid I. Muhammad
Member of International Human Rights Association of
American Minorities Directorate

5 p.m. Meeting with Ms. Esmeralda Simmons
Director
Centre for Law and Social Justice

Tuesday, 18 October

9 a.m. Meeting with Dr. Loretta Williams
Sociologist

11.30 a.m. Meeting with Dr. David Singer
Assistant Director
Jacob Blaustein Institute for
the Advancement of Human Rights

3 p.m. Departure for Los Angeles

Wednesday, 19 October

10 a.m. Meeting with Mr. Theodore Eagans
Lift Every Voice, Inc.

3 p.m. Meeting with Mr. Enrique Loaenza
Consul General of Mexico

4 p.m. Meeting with Mr. Ignatius Bau
Pacific and Asian American Center for
Theology and Strategy

5 p.m. Meeting with Ms. Kathleen Hiyake
Director, Leadership Development in
Interethnic Relations
Asian Pacific American Legal Center

Thursday, 20 October

9 a.m. Meetings with Mr. Robert Almanzan
Community Affairs Assistant
Mexican-American Legal Defense and
Educational Fund

10 a.m. Ms. Ann Fagan Ginger
Director
Meiklejohn Civil Liberties Institute

Thursday, 20 October (continued)

11 a.m. Visit of Museum of Tolerance and meeting with
Rabbi Abraham Cooper
International Director
Simon Wiesenthal Center

3 p.m. Departure for Atlanta

Friday, 21 October

9 a.m. Meeting with Mr. Harry Barnes
Director
Conflict Resolution and Human Rights Programs
The Carter Center
Atlanta

10 a.m. Meeting with Ms. Beny Ivey
Director
Center for Democratic Renewal
Atlanta

11 a.m. Meetings with Dr. Robert Bullard
Southern Organization Committee for
Economic and Social Justice

3 p.m. Meeting with Councilwoman Sheila Martin Brown
The Mayor of Atlanta's Office

Saturday, 22 October

Departure for Geneva